

Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle
Governor

Frank J. Busalacchi
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P O Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

May 6, 2005

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board, Room 1324
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
MAY 10 2005
Part of
Public Record



RE: **STB Docket No. AB-33 (Sub-No. 251X)** Union Pacific Railroad Company - Abandonment
Exemption - in Dane County, WI - STB Docket No. AB 383 (Sub.-No. 4X) Wisconsin &
Southern Railroad Company - Discontinuance of Service Exemption - in Dane County, WI -
Petition for Notice of Interim Trial Use

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the Wisconsin Department of Natural Resources Petition for Notice of Interim Trial Use.

We are making this application on behalf of the general public. Wisconsin Department of Natural Resources is a governmental entity and exempt from the filing fee under 49 C.F.R. 1002.2 (e)(1).

Please date stamp and return the duplicate copy of this transmittal letter in the prepaid, return mail envelope for verification of receipt. Thank you.

By my signature below, I certify service upon Mack H. Shumate, Union Pacific, 101 N. Wacker Drive, Suite 1920, Chicago, IL 60606 and John D. Heffner, John D. Heffner, PLLC, Suite 800, 1920 N Street NW, Washington, DC 20036.

Sincerely,

Allyn Lepeska
Attorney

Enclosures

pc: Vicki Schaefer
Richard Steffes
Mack H. Shumate
John D. Heffner

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
MAY 10 2005
Part of
Public Record

AB-33 (Sub-No. 251X) 213948

UNION PACIFIC RAILROAD COMPANY -- ABANDONMENT EXEMPTION --
IN DANE COUNTY, WISCONSIN

AB-383 (Sub-No. 4X) 213949

WISCONSIN & SOUTHERN RAILROAD COMPANY -- DISCONTINUANCE
OF SERVICE EXEMPTION -- IN
DANE COUNTY, WISCONSIN

WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PETITION FOR NOTICE OF INTERIM TRAIL USE

BACKGROUND

On May 2, 2005, the Surface Transportation Board provided notice that the Union Pacific Railroad Company (UP) and the Wisconsin & Southern Railroad Company have jointly filed a Notice of Exemption under 49 CFR 1152 Subpart F for UP to abandon and WSOR to discontinue service over a 4.4-mile line, Harvard subdivision, known as the Central Soya Line, Harvard Subdivision, between Mile Post 85.5 in the City of Madison and Mile Post 89.9 in the City of Fitchburg, in Dane County, WI.

On April 5, 2005, the Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of the Central Soya Line, Harvard Subdivision between Mile Post 85.5 Beltline in the City of Madison, Wisconsin and end of track at Mile Post 89.9 in the City of Fitchburg, Wisconsin, a distance of 4.4 miles in Dane County Wisconsin.

PURPOSE

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WisDNR for specified segments of the right of way involved in this proceeding. WisDNR will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

STATE RESPONSIBILITIES

WisDNR is the lead state agency for designating, acquiring, developing for public use and maintaining a system of state trails as part of the state park system for use by equestrians, bicyclists, cross country skiers or hikers. Secs. 23.09(2)(d)12, 23.175(2)(a) and 23.30(1), Wis. Stats. It is required to encourage other state agencies to participate in the planning, establishing, developing and maintaining of state trails. Sec. 23.175(2)(b), Wis. Stats. WisDNR is authorized to spend funds with the approval of the Governor for the acquisition of lands. Secs. 20.914 and 23.14, Wis. Stats.

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be

incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

WisDNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in having CECW acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 consists of a map showing the location of all the needed property in Dane County, Wisconsin.

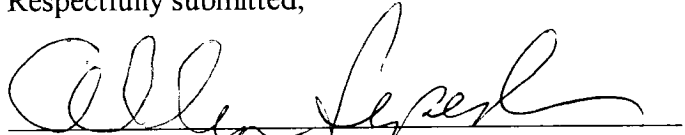
Exhibit 2 is the required Statement of Willingness by the Wisconsin Department of Natural Resources to assume full responsibility for management of the property.

WisDNR acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use.

CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, including bridge structures, for the Central Soya Line, Harvard Subdivision between Mile Post 85.5 Beltline in the City of Madison, Wisconsin and end of track at Mile Post 89.9 in the City of Fitchburg, Wisconsin, a distance of 4.4 miles in Dane County Wisconsin for interim trail use and rail banking, pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 to the Wisconsin Department of Natural Resources. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

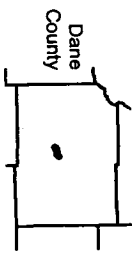
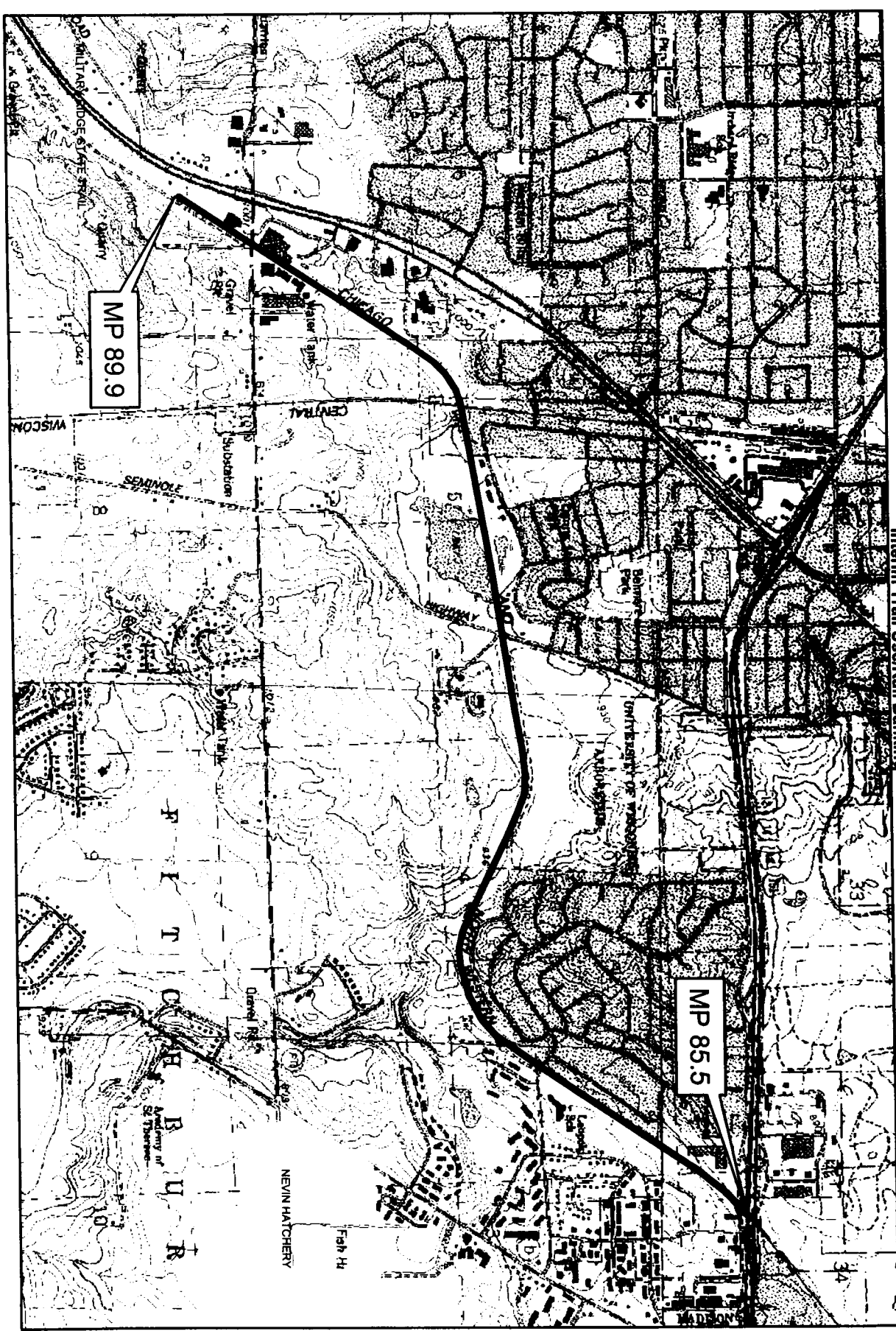
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allyn Lepeska", written over a horizontal line.

Allyn Lepeska, State Bar No. 1013474
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 115-B
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-0253
Attorney for Wisconsin Department of
Transportation



EXHIBIT 1
Military Ridge State Trail
Interim Trail Use/Rail Banking



SUBJECT
DNR Managed Land

Created by WIDNR
Bureau of Facilities and Lands
April, 2005
1:24,000
0.0 0.1 0.2 0.3 0.4 Miles

BEFORE THE
SURFACE TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY
ABANDONMENT EXEMPTION IN
DANE COUNTY

STATEMENT OF WILLINGNESS TO ACCEPT RESPONSIBILITY BY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 USC 1247(d) and 49 CFR 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of the property it acquires from the present owner, Union Pacific Railroad Company and operator, Wisconsin and Southern Railroad Company. Upon acquisition, WDNR is willing to assume full responsibility for its operations on the property and for the payment of any taxes or assessments that thereafter may be lawfully levied against it. Segment for which WDNR is making this Statement of Willingness is the following portion of the line:

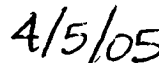
Central Soya Line, Harvard Subdivision between Mile Post 85.5 Beltline in the City of Madison, Wisconsin and end of track at Mile Post 89.9 in the City of Fitchburg, Wisconsin, a distance of 4.4 miles in Dane County, Wisconsin.

A map depicting the property that is to be acquired by WDNR is attached to this pleading as Exhibit "1".

WDNR acknowledges that use of the property is subject to the WDNR continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the property for rail service. A copy of this statement is being served on the railroad, Union Pacific Railroad Company, on the same date it is being served on the Surface Transportation Board.



State of Wisconsin, Department of Natural Resources
By: Scott Hassett

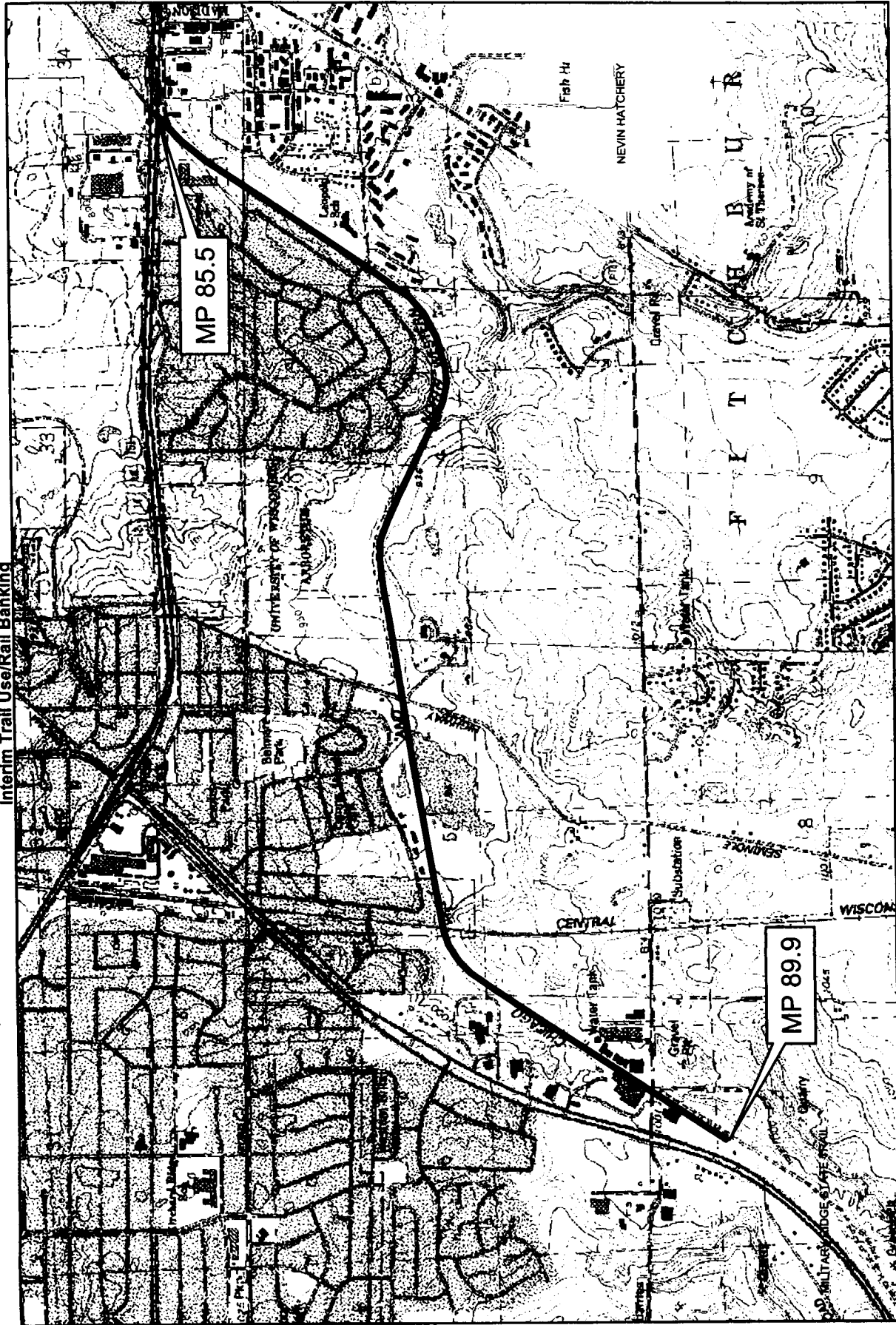


Date

EXHIBIT 1

Military Ridge State Trail

Interim Trail Use/Rail Banking



Created by WIDNR
Bureau of Facilities and Lands
April, 2005
1:24,000
0.0 0.05 0.1 0.2 0.3 0.4 Miles

